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UNCLAS SECTION 01 OF 02 PARIS 007127

SIPDIS

FROM USMISSION UNESCO PARIS

SENSITIVE

E.O. 12958: N/A

TAGS: UNESCO SCUL UNGA FUN

SUBJECT: EUROPEAN UNION AMBASSADORIAL DELEGATION

SWITCHING ISSUE AT UNESCO'S 175th EXECUTIVE BOARD (FALL 2006)

¶11. (U) The question of EU ambassadorial delegation switching - which provoked strong, negative reactions at the Spring 2006 Executive Board session - was followed up with determination by the Asia-Pacific (ASPAC) States (led by India and Japan, and joined by Afghanistan, China, Indonesia) to have a resolution adopted during the just concluded Executive Board session that would call this practice into question. Their resolution proved to be one of the more politically sensitive issues that emerged. The wording of the resolution as finally adopted represents a significant improvement over the draft text originally proposed by the ASPAC States.

¶12. (U) Although this matter is not likely to be definitively resolved until at least the next (or 176th) session, and perhaps the 177th session, the US Delegation achieved a short-term victory by preventing the Executive Board from giving this practice a hurried, expedient endorsement. Instead, working in tight collaboration with the ASPAC and Norwegian delegations (with them in the lead), the U.S. succeeded in getting the Executive Board to institute a deliberative process by which this unusual practice will be given more in-depth consideration. Our hope is that this consideration will entail an assessment of the full range of legal, political, governance, and other implications arising from ambassadorial delegation switching.

¶13. (U) Also, importantly, the review process now underway expressly contemplates the possibility of an active role for Executive Board Member States to consult with the Director-General about whether such delegation switching should be considered acceptable UNESCO practice. Further, this process offers a critical opportunity for Executive Board Member States to, in effect, override the legal opinion of UNESCO's Legal Adviser (Yusuf), who on three occasions asserted that he finds nothing in the Executive Board's current rules of procedure that prohibits such delegation switching. To

make their views known, however, Member States will need to be pro-active and present to the Director General their written legal and policy views on this matter before the next Executive Board meeting (April 10-26, 2007).

¶4. (SBU) The good news is that the European delegations refrained from repeating this objectionable practice during the 175th EB session. They appear a bit shaken by the degree of controversy that has been sparked around this issue. Indeed, mid-way through the Board session, the UK Ambassador (Tim Craddock) informed ASPAC ambassadors that "perhaps we [the European Ambassadors] had gone too far" by engaging in delegation switching. Craddock went even farther (presumably speaking on behalf of his EU colleagues) by offering to provide the ASPAC group as well as the Chairman of the EB with a "gentleman's agreement" letter that in effect would have offered an EU promise to refrain from again engaging in delegation switching by Ambassadors or their Charge d'Affaires at Executive Board or General Conference meetings. The ASPAC States responded immediately by welcoming the receipt of such a letter. However, for reasons that still remain unclear, two days later the Europeans abruptly withdrew their promise to provide such a letter. The ASPAC States reacted to this reversal with considerable pique and with reinforced determination to proceed with their resolution.

¶5. (SBU) Caucusing closely with the US delegation, the ASPAC States enthusiastically endorsed the US idea that the resolution should expressly provide for referral of this issue to the General Conference's Legal Committee. A revised ASPAC resolution to that effect was therefore circulated. When the matter came before the Joint Meeting of the PX and FA Committees, the issue was hotly debated, with the ASPAC States (joined by the US) pushing for adoption of a resolution that called for a three-step review process: (i) a Secretariat paper surveying UN rules and practice with respect to delegation switching by ambassadors; (ii) follow-on independent consideration by the Legal Committee of this issue; and (iii) final consideration within the Executive Board of the acceptability of this practice, taking into account the Secretariat paper and the findings of the Legal Committee. The EU States sought to have the issue sidelined at the Joint Meeting so it could be taken up only at the Plenary session, and France called for a vote on having this done. (Comment: The Executive Board usually works by consensus; calling for a vote is unusual.) The EU proposal lost by three votes (23 opposed to versus 20 in favor of the European proposal). (Comment: Many of UNESCO's Executive Board members are not diplomats and were likely unaware of the stakes involved for the broader UN system.) Norway then offered a compromise resolution that differed from the revised ASPAC resolution by eliminating step (ii) (i.e., referral to the Legal Committee). To avoid a long further debate on the issue, the chairman created a working group of the interested States representing all regional groups who met separately. Their mandate: to try to craft a compromise resolution drawing from both the revised ASPAC and the Norwegian texts. The result of that effort was the consensus resolution adopted which, in relevant part:

¶6. (U) Requests the Director-General to develop a document for the 176th session of the Executive Board outlining the present rules, regulations, and practices concerning the designation of members to delegations to the Executive Board in UNESCO and to similar bodies within the UN system generally, and, in that regard, to consult Member States of the Executive Board in this process:

¶7. (U) Decides to have a discussion on how to proceed on this issue, based on the document requested above, at the 176th session of the Executive Board.

¶8. (SBU) During the course of the working group's deliberations, some ASPAC States (Japan and India in particular) decided to drop the referral to the Legal Committee on the theory that that step could still take place later, depending upon how the EB's deliberations go at the 176th session. It turned out that Afghanistan had not been alerted to this change of position by its other ASPAC co-sponsors and Afghanistan privately objected strongly to deletion of an early Legal Committee review. Though disgruntled, Afghanistan did not prevent consensus adoption of the resolution.

¶9. (SBU) We anticipate (and hope) that the ASPAC States will remain seized with this issue. Several, such as Japan and India, shared privately with Mission Legal Adviser their firm intention to ask

their Foreign Ministry's Legal and IO policy offices to submit timely written views to the Director General that will oppose any UNESCO effort to legitimize the practice of ambassadorial delegation switching. We said we would do likewise. They also shared that one of the key factors motivating ASPAC's resistance to this practice is its concern about the potential perverse effects this unusual practice could have on their internal regional dynamics insofar as "intra-region geographic balance" and intra-regional rotation and representation on EB bodies are concerned.

¶10. (U) In a separate report back to L/UNA and others we will comment on our differences with Legal Adviser Yusuf's interpretation of Articles 36 and 37 of the GC Rules of Procedure on who has the authority to convoke a meeting of the Legal Committee. OLIVER